

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
COLEMAN FLORISTS, INC.,)	
KENNETH P. COLEMAN,)	
)	
Defendants.)	

COMPLAINT

COMES NOW Plaintiff, the United States of America, by and through its undersigned counsel, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Joshua M. Jones, Assistant United States Attorney for said District, and for its cause of action, states as follows:

PARTIES

1. Plaintiff is the United States of America (the “United States”), acting on behalf of the United States Small Business Administration (the “SBA”)
2. Defendant Coleman Florists, Inc., is Missouri for profit corporation (Charter No. 00225313) with its principal place of business located at 221 North Olive, Pacific, Missouri 63069.
3. Defendant Kenneth P. Coleman is a domicile of Missouri with his last known address in Pacific, Missouri. Defendant Kenneth P. Coleman is the President and Secretary of Defendant Coleman Florists, Inc.

JURISDICTION AND VENUE

4. This is a civil action brought by the United States seeking to collect a debt pursuant to the Federal Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, *et seq.*

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1345.

6. Venue is proper in the Eastern District of Missouri pursuant to 28 U.S.C. § 1391.

7. Divisional venue is proper in the Eastern Division pursuant to L.R. 3-2.07(A)(1).

FACTUAL ALLEGATIONS

8. Defendants Coleman Florists Inc. and Kenneth P. Coleman are indebted to the United States in the amount \$72,336.86, which includes a current principal amount of \$67,424.15, interest of \$4,912.71 and costs and administrative fees of \$768.08. *See* 31 U.S.C. §§ 3717(e), 3711 (g)(6), and 28 U.S.C. §527. This debt arose in connection with the Defendants' March 2016 default on a \$140,000.00 SBA loan. Attached hereto as Exhibit "1" and "Exhibit "2" are the March 22, 2016, Note and Loan Authorization Agreement signed by Defendant Kenneth P. Coleman as President and Secretary of Defendant Coleman Florists Inc.

9. Defendant Kenneth P. Coleman signed the Note and Loan Authorization Agreement individually as a borrower, and therefore obligated himself on the indebtedness. *See* Exhibit "1" and "2."

10. Defendants Coleman Florists Inc. and Kenneth P. Coleman made regular monthly payments according to the terms of the Note from March 28, 2016, to February 21, 2017, but defaulted on the loan as of August 2017. Defendants then made only nominal payments between from March 2018 through November 2018.

11. Attached hereto as Exhibit “3” is a Certificate of Indebtedness prepared by the United States Department of the Treasury, Financial Management Service, acting on behalf of SBA, establishing the basis for Defendants’ liability of a total debt of \$72,336.86.

12. Defendants Coleman Florists Inc. and Kenneth P. Coleman have failed to repay the aforesaid sum although demand has been duly made.


WHEREFORE, the United States prays this Court enter judgment in its favor against Defendants Coleman Florists, Inc., and Kenneth Coleman in the sum of \$67,424.15 plus all accumulated interest, administrative costs and charges, any applicable penalties, and for such other and further relief as the Court may deem proper.

Respectfully submitted,

JEFFREY B. JENSEN
United States Attorney

/s/ Joshua M. Jones

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 U.S. Small Business Administration	U.S. Small Business Administration	Date: March 22, 2016
	NOTE	Loan Amount: \$140,000.00
	(SECURED DISASTER LOANS)	Annual Interest Rate: 4.000%

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Loan # DLB 8312875000

- PROMISE TO PAY:** In return for a loan, Borrower promises to pay to the order of SBA the amount of One Hundred Forty Thousand And 00/100 Dollars, interest on the unpaid principal balance, and all other amounts required by this Note.
- DEFINITIONS:** A) "Collateral" means any property taken as security for payment of this Note or any guarantee of this Note. B) "Guarantor" means each person or entity that signs a guarantee of payment of this Note. C) "Loan Documents" means the documents related to this loan signed by Borrower, any Guarantor, or anyone who pledges collateral.
- PAYMENT TERMS:** Borrower must make all payments at the place SBA designates. Borrower may prepay this Note in part or in full at any time, without notice or penalty. Borrower must pay principal and interest payments of \$682.00 every month beginning Five (5) months from the date of the Note. SBA will apply each installment payment first to pay interest accrued to the day SBA receives the payment and will then apply any remaining balance to reduce principal. All remaining principal and accrued interest is due and payable Thirty (30) years from the date of the Note.
- DEFAULT:** Borrower is in default under this Note if Borrower does not make a payment when due under this Note, or if Borrower: A) Fails to comply with any provision of this Note, the Loan Authorization and Agreement, or other Loan Documents; B) Defaults on any other SBA loan; C) Sells or otherwise transfers, or does not preserve or account to SBA's satisfaction for, any of the Collateral or its proceeds; D) Does not disclose, or anyone acting on their behalf does not disclose, any material fact to SBA; E) Makes, or anyone acting on their behalf makes, a materially false or misleading representation to SBA; F) Defaults on any loan or agreement with another creditor, if SBA believes the default may materially affect Borrower's ability to pay this Note; G) Fails to pay any taxes when due; H) Becomes the subject of a proceeding under any bankruptcy or insolvency law; I) Has a receiver or liquidator appointed for any part of their business or property; J) Makes an assignment for the benefit of creditors; K) Has any adverse change in financial condition or business operation that SBA believes may materially affect Borrower's ability to pay this Note; L) Dies; M) Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without SBA's prior written consent; or N) Becomes the subject of a civil or criminal action that SBA believes may materially affect Borrower's ability to pay this Note.
- SBA'S RIGHTS IF THERE IS A DEFAULT:** Without notice or demand and without giving up any of its rights, SBA may: A) Require immediate payment of all amounts owing under this Note; B) Have recourse to collect all amounts owing from any Borrower or Guarantor; C) File suit and obtain judgment; D) Take possession of any Collateral; or E) Sell, lease, or otherwise dispose of, any Collateral at public or private sale, with or without advertisement.
- SBA'S GENERAL POWERS:** Without notice and without Borrower's consent, SBA may: A) Bid on or buy the Collateral at its sale or the sale of another lienholder, at any price it chooses; B) Collect amounts due under this Note, enforce the terms of this Note or any other Loan Document, and preserve or dispose of the Collateral. Among other things, the expenses may include payments for property taxes, prior liens, insurance, appraisals, environmental remediation costs, and reasonable attorney's fees and costs. If SBA incurs such expenses, it may demand immediate reimbursement from Borrower or add the expenses to the principal balance; C) Release anyone obligated to pay this Note; D) Compromise, release, renew, extend or substitute any of the Collateral; and E) Take any action necessary to protect the Collateral or collect amounts owing on this Note.
- FEDERAL LAW APPLIES:** When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.
- GENERAL PROVISIONS:** A) All individuals and entities signing this Note are jointly and severally liable. B) Borrower waives all suretyship defenses. C) Borrower must sign all documents required at any time to comply with the Loan Documents and to enable SBA to acquire, perfect, or maintain SBA's liens on Collateral. D) SBA may exercise any of its rights separately or together, as many times and in any order it chooses. SBA may delay or forgo enforcing any of its rights without giving up any of them. E) Borrower may not use an oral statement of SBA to contradict or alter the written terms of this Note. F) If any part of this Note is unenforceable, all other parts remain in effect. G) To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor. Borrower also waives any defenses based upon any claim that SBA did not obtain any guarantee; did not obtain, perfect, or maintain a lien upon Collateral; impaired Collateral; or did not obtain the fair market value of Collateral at a sale. H) SBA may sell or otherwise transfer this Note.



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9. **MISUSE OF LOAN FUNDS:** Anyone who wrongfully misapplies any proceeds of the loan will be civilly liable to SBA for one and one-half times the proceeds disbursed, in addition to other remedies allowed by law.
10. **BORROWER'S NAME(S) AND SIGNATURE(S):** By signing below, each individual or entity acknowledges and accepts personal obligation and full liability under the Note as Borrower.

Corporate Seal

Corporate Execution:

COLEMAN FLORISTS INC


By: Kenneth P. Coleman
KENNETH P. COLEMAN, PRESIDENT

By: Kenneth P. Coleman
KENNETH P. COLEMAN, SECRETARY

Individual Execution:

Kenneth P. Coleman
KENNETH P. COLEMAN, INDIVIDUALLY

ORIGINAL

 U.S. Small Business Administration	U.S. Small Business Administration	Date: June 1, 2017
	FIRST Modification of NOTE	Loan Amount: \$140,000.00
	(SECURED DISASTER LOANS)	Annual Interest Rate: 4.000%

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Loan # DLB 8312875000

1. **NOTE:** The "Note" is the SBA note signed by Borrower, dated March 22, 2016 in the amount of One Hundred Forty Thousand And 00/100 Dollars, payable to SBA, including any modifications.
2. **CURRENT PAYMENT TERMS:** Including terms modified by this agreement, the current payment terms of the Note are: The loan amount is One Hundred Forty Thousand And 00/100 Dollars. The interest rate is 4.000% per year. Payments of \$694.00 are due every MONTH beginning August 22, 2017. All remaining principal and accrued interest is due and payable on March 22, 2046.
3. **TERMS HISTORY:** For ease of reference only, original and modified Note terms are:

	Original Note	This Modification
Date	March 22, 2016	June 1, 2017
Note Amount	\$140,000.00	\$140,000.00
Interest Rate	4.000%	4.000%
Payments	\$682.00, Monthly	\$694.00, Monthly
Maturity Date	March 22, 2046	March 22, 2046

4. **EFFECT OF THIS MODIFICATION:** All terms of the Note remain unchanged by this agreement except terms that are expressly modified. This Modification of Note becomes a part of the original Note and has the same effect as if its terms were in the original Note when it was signed.
5. **BORROWER'S NAME(S) AND SIGNATURE(S):** By signing below, each individual or entity acknowledges and accepts personal obligation and full liability under the Note as Borrower.

Corporate Execution:

COLEMAN FLORISTS INC

By: Kenneth P. Coleman
KENNETH P. COLEMAN, PRESIDENT

By: Kenneth P. Coleman
KENNETH P. COLEMAN, SECRETARY

Individual Execution:

Kenneth P. Coleman
KENNETH P. COLEMAN, INDIVIDUALLY

ORIGINAL

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Secured Business Disaster Loan

U.S. Small Business Administration

LOAN AUTHORIZATION AND AGREEMENTDate: March 17, 2016

On the above date, this Administration (SBA) authorized (under Section 7(b) of the Small Business Act, as amended) a Loan (Loan Number DLB 8312875000) to COLEMAN FLORISTS INC and KENNETH P. COLEMAN (Borrower) of 404 S 1ST ST, PACIFIC, MO 63069 in the amount of One Hundred Forty Thousand And 00/100 (\$140,000.00) Dollars upon the following conditions:

1. PAYMENT TERMS

- A. Interest will accrue at the rate of 4.000% per annum; installment payments, including principal and interest, of Six Hundred Eighty-Two And 00/100 (\$682.00) Dollars monthly, will begin Five (5) months from the date of the promissory Note. The balance of principal and interest will be payable Thirty (30) years from the date of the promissory Note.
- B. Each payment will be applied first to interest accrued to the date of receipt of each payment, and the balance, if any, will be applied to principal.
- C. Each payment will be made when due even if at that time the full amount of the Loan has not yet been advanced or the authorized amount of the Loan has been reduced.
- D. Interest will accrue only on funds actually advanced from the date(s) of each advance.

2. COLLATERAL

Borrower will provide the following collateral:

- A. Deed of Trust/Mortgage on real estate located at 404 S 1ST ST, PACIFIC, MO 63069. Said Deed of Trust/Mortgage to be subject only to the following:
 - (1) Trust Deed/Mortgage held by ROCKWOOD BANK, 219 THRESHER AVE P.O. BOX 710, EUREKA, MO 63025 with a current approximate balance of \$0.00.
 - (2) This security instrument to be executed by ANGELA G COLEMAN.

3. REQUIREMENTS RELATIVE TO COLLATERAL

- A. Borrower will submit to SBA evidence of SBA's recorded lien position and of payment of appropriate fees prior to the disbursement of Loan funds in excess of \$25,000.00. Such evidence will be in a form satisfactory to SBA Counsel and will be at Borrower's expense.
- B. Borrower will not sell or transfer any collateral (except normal inventory turnover in the ordinary course of business) described in paragraph 2 hereof without the prior written consent of SBA.
- C. Borrower will neither seek nor accept future advances under any superior liens on the collateral securing this Loan without the prior written consent of SBA.

4. USE OF LOAN PROCEEDS

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Borrower will use the proceeds of this Loan solely to rehabilitate or replace property of Borrower, damaged or destroyed by disaster occurring in the month of December, 2015. Borrower will apply all Loan proceeds to the following specific uses:

A. Economic Injury:

(1) Approximately \$46,800.00 for working capital.

B. Property located at 404 S 1ST ST, PACIFIC, MO 63069:

(1) Approximately \$67,900.00 to repair/replace disaster damaged real estate.

(2) Approximately \$10,000.00 to repair/replace disaster damaged inventory.

(3) Approximately \$13,200.00 to repair/replace disaster damaged machinery and equipment.

(4) Approximately \$2,100.00 to repair/replace disaster damaged furniture and fixtures.

5. REQUIREMENTS FOR USE OF LOAN PROCEEDS AND RECEIPTS

- A. Borrower will obtain and itemize receipts (paid receipts, paid invoices or cancelled checks) and contracts for all Loan funds spent and retain these receipts for 3 years from the date of the final disbursement. Prior to each subsequent disbursement (if any) and whenever requested by SBA, Borrower will submit to SBA such itemization together with copies of the receipts.
- B. Borrower will make the damaged, repaired or replacement property(ies) available to SBA for inspection and verification of the use of Loan proceeds when so requested.
- C. Borrower will return to SBA, as soon as possible but not later than 1 year from the date of final disbursement, all funds received but not used for disaster repairs as authorized by the above paragraph. Funds so returned will be used to reduce the outstanding balance of this Loan and will not be applied in lieu of scheduled payments.
- D. Borrower will not use any proceeds of this Loan to pay wages or any other compensation for repair work performed by Borrower or members of Borrower's immediate family, or to pay overhead or profit for repairs performed by, or materials acquired from, a business in which Borrower owns a 50% or greater interest.
- E. Borrower will not use, directly or indirectly, any portion of the proceeds of this Loan to relocate without the prior written permission of SBA. The law prohibits the use of any portion of the proceeds of this Loan for voluntary relocation from the business area in which the disaster occurred. To request SBA's prior written permission to relocate, Borrower will present to SBA the reasons therefore and a description or address of the relocation site. Determinations of (1) whether a relocation is voluntary or otherwise, and (2) whether any site other than the disaster-affected location is within the business area in which the disaster occurred, will be made solely by SBA.
- F. Borrower will, to the extent feasible, purchase only American-made equipment and products with the proceeds of this Loan.
- G. Borrower will make any request for a loan increase for additional disaster-related damages as soon as possible after the need for a loan increase is discovered. The SBA will not consider a request for a loan increase received more than two (2) years from the date of the original Loan Authorization and Agreement unless, in the sole discretion of the SBA, there are extraordinary and unforeseeable circumstances beyond the control of the borrower.

6. DEADLINE FOR RETURN OF LOAN CLOSING DOCUMENTS

Borrower will sign and return the loan closing documents to SBA within 2 months of the date of this Loan Authorization and Agreement. By notifying the Borrower in writing, SBA may cancel this Loan if the Borrower fails

10/10/2019

The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for ensuring transparency and accountability in financial matters.

The second part of the document outlines the specific procedures and protocols that must be followed when conducting financial transactions. It details the steps for initiating a transaction, the required approvals, and the documentation needed to complete the process.

The third part of the document addresses the role of the accounting department in monitoring and reporting on financial performance. It describes how the department tracks expenses, manages budgets, and provides regular reports to management.

The fourth part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for ensuring transparency and accountability in financial matters.

The fifth part of the document outlines the specific procedures and protocols that must be followed when conducting financial transactions. It details the steps for initiating a transaction, the required approvals, and the documentation needed to complete the process.

The sixth part of the document addresses the role of the accounting department in monitoring and reporting on financial performance. It describes how the department tracks expenses, manages budgets, and provides regular reports to management.

The seventh part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for ensuring transparency and accountability in financial matters.

The eighth part of the document outlines the specific procedures and protocols that must be followed when conducting financial transactions. It details the steps for initiating a transaction, the required approvals, and the documentation needed to complete the process.

The ninth part of the document addresses the role of the accounting department in monitoring and reporting on financial performance. It describes how the department tracks expenses, manages budgets, and provides regular reports to management.

The tenth part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for ensuring transparency and accountability in financial matters.

The eleventh part of the document outlines the specific procedures and protocols that must be followed when conducting financial transactions. It details the steps for initiating a transaction, the required approvals, and the documentation needed to complete the process.

The twelfth part of the document addresses the role of the accounting department in monitoring and reporting on financial performance. It describes how the department tracks expenses, manages budgets, and provides regular reports to management.

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to meet this requirement. The Borrower may submit and the SBA may, in its sole discretion, accept documents after 2 months of the date of this Loan Authorization and Agreement.

7. AGREEMENT TO REMIT AND ASSIGNMENT OF COMPENSATION FROM OTHER SOURCES

- A. Eligibility for this disaster Loan is limited to disaster losses that are not compensated by other sources. Other sources include but are not limited to: (1) proceeds of policies of insurance or other indemnifications, (2) grants or other reimbursement (including loans) from government agencies or private organizations, (3) claims for civil liability against other individuals, organizations or governmental entities, and (4) salvage (including any sale or re-use) of items of damaged property.
- B. Borrower will promptly notify SBA of the existence and status of any claim or application for such other compensation, and of the receipt of any such compensation, and Borrower will promptly submit the proceeds of same (not exceeding the outstanding balance of this Loan) to SBA.
- C. Borrower hereby assigns to SBA the proceeds of any such compensation from other sources and authorizes the payor of same to deliver said proceeds to SBA at such time and place as SBA shall designate.
- D. SBA will in its sole discretion determine whether any such compensation from other sources is a duplication of benefits. SBA will use the proceeds of any such duplication to reduce the outstanding balance of this Loan, and Borrower agrees that such proceeds will not be applied in lieu of scheduled payments.

8. REQUIREMENTS FOR REAL ESTATE CONSTRUCTION OR REPAIR

- A. Borrower will not use lead-based paint on any interior surface of any residential structure, and those exterior surfaces of residential structures such as stairs, porches, windows, and doors, which are readily accessible to children under 7 years of age. If lead-based paint is improperly used, the Borrower will be required to remove the paint and repaint the affected area at the Borrower's expense.

When requested, Borrower will submit evidence satisfactory to SBA that all insurance proceeds and other funds received for disaster damages to the real estate (including any other funds necessary to complete the construction/repair/mitigation project) have been spent for the repair or replacement of the disaster damaged real estate. (The terms and conditions of any borrowed funds must be approved by the SBA.)

- B. Prior to disbursement of Loan funds in excess of \$50,000.00 for real estate (including any manufactured housing) construction, repair, or mitigation, for a specific structure, Borrower will submit a copy of a valid building permit, or evidence satisfactory to SBA that a building permit is not required.
- C. Prior to any disbursement of Loan funds in excess of \$50,000.00 for real estate (including any manufactured housing) construction, repair, or mitigation for a specific structure, Borrower will submit a construction plan (which may include contract(s), bids, estimates, proposals, and quotes) supporting the total project cost for the repair/construction/mitigation work satisfactory to SBA. Borrower should demonstrate the availability of any additional funds needed in excess of the SBA loan amount for a specific damaged structure. (The terms and conditions of any borrowed funds must be approved by the SBA.)
- D. Prior to any disbursement of Loan funds for real estate (including any manufactured housing) construction, repair, or mitigation, Borrower will execute and submit an Agreement of Compliance (SBA Form 601).

9. DUTY TO MAINTAIN INSURANCE

- A. Prior to disbursement of Loan funds in excess of \$25,000.00, Borrower will purchase (make application and pay initial premium for) hazard insurance, including fire, lightning, and extended coverage. The coverage must adequately cover the structure, materials and equipment during any repairs to a disaster damaged property. Amount of coverage will be equal to 80% of the insurable value of each property or the minimum coinsurance requirement set forth in the insurance policy provided by Borrower, whichever is greater, or such other amounts and types of coverage as SBA may require on the properties located at:

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COVERAGE TYPE – Hazard**ADDRESS**404 S 1ST ST
PACIFIC, MO 63069**PROPERTY TYPE**All insurable real property (including any
manufactured housing), Contents

Borrower will provide proof of such hazard insurance coverage to SBA. For any of the properties listed above that are also specified as collateral for this Loan, the SBA will be named as mortgagee or loss payee. **BORROWER MAY NOT BE ELIGIBLE FOR EITHER ANY FUTURE DISASTER ASSISTANCE OR SBA FINANCIAL ASSISTANCE IF THIS INSURANCE IS NOT MAINTAINED AS STIPULATED HEREIN THROUGHOUT THE ENTIRE TERM OF THIS LOAN.**

- B. Borrower will purchase (make application and pay the initial premium for) National Flood Insurance, or equivalent coverage, as specified below:

PROPERTY IS IN FLOOD HAZARD AREA. Prior to any disbursement of this Loan, Borrower will purchase flood coverage in an amount equal to the lesser of the amount of this Loan or the maximum coverage available or the fair market value of the property, whichever is less, for the real property (including any manufactured housing) and/or contents located at:

ADDRESS404 S 1ST ST
PACIFIC, MO 63069**PROPERTY TYPE**All insurable real property (including any
manufactured housing) and Contents

Borrower will not cancel such coverage and will maintain such coverage throughout the entire term of this Loan. For any of the properties listed above that are also specified as collateral for this Loan, the SBA will be named as mortgagee or loss payee. **BORROWER WILL NOT BE ELIGIBLE FOR EITHER ANY FUTURE DISASTER ASSISTANCE OR SBA FINANCIAL ASSISTANCE IF THIS FLOOD INSURANCE IS NOT MAINTAINED AS STIPULATED HEREIN THROUGHOUT THE ENTIRE TERM OF THIS LOAN.**

10. BOOKS AND RECORDS

- A. Borrower will maintain current and proper books of account in a manner satisfactory to SBA for the most recent 5 years until 3 years after the date of maturity, including extensions, or the date this Loan is paid in full, whichever occurs first. Such books will include Borrower's financial and operating statements, insurance policies, tax returns and related filings, records of earnings distributed and dividends paid and records of compensation to officers, directors, holders of 10% or more of Borrower's capital stock, members, partners and proprietors.
- B. Borrower authorizes SBA to make or cause to be made, at Borrower's expense and in such a manner and at such times as SBA may require: (1) inspections and audits of any books, records and paper in the custody or control of Borrower or others relating to Borrower's financial or business conditions, including the making of copies thereof and extracts therefrom, and (2) inspections and appraisals of any of Borrower's assets.
- C. Borrower will furnish to SBA, not later than 3 months following the expiration of Borrower's fiscal year and in such form as SBA may require, Borrower's financial statements.
- D. Upon written request of SBA, Borrower will accompany such statements with an "Accountant's Review Report" prepared by an independent public accountant at Borrower's expense.
- E. Borrower authorizes all Federal, State and municipal authorities to furnish reports of examination, records and other information relating to the conditions and affairs of Borrower and any desired information from such reports, returns, files, and records of such authorities upon request of SBA.

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11. DISTRIBUTIONS AND COMPENSATION

- A. Borrower will not, without the prior written consent of SBA, make any distribution of Borrower's assets, or give any preferential treatment, make any advance, directly or indirectly, by way of loan, gift, bonus, or otherwise, to any owner or partner or any of its employees, or to any company directly or indirectly controlling or affiliated with or controlled by Borrower, or any other company.
- B. Borrower will not, without the prior written consent of SBA, declare or pay any dividend or make any distribution upon its capital stock or corporate assets, or purchase or retire any of its capital stock, or consolidate, or merge with any other company, or give any preferential treatment, make any advance, directly or indirectly, by way of loan, gift, bonus, or otherwise, to any company directly or indirectly controlling or affiliated with or controlled by Borrower, or any other company, or to any officer, director or employee of Borrower, or of any such company. A Sub-chapter S corporation may make distribution to shareholders for the payment of tax liability attributable to corporate earnings.

12. OTHER CONDITIONS

- A. If Borrower has or intends to have employees, Borrower will post SBA Form 722, "Equal Opportunity Poster", in Borrower's place of business where it will be clearly visible to employees, applicants for employment, and the general public.
- B. Prior to disbursement of any Loan funds, Borrower will submit a Board of Directors' Resolution on SBA Form 160 for:

(1) COLEMAN FLORISTS INC**13. BORROWER'S CERTIFICATIONS**

Borrower certifies that:

- A. There has been no substantial adverse change in Borrower's financial condition (and organization, in case of a business borrower) since the date of the application for this Loan. (Adverse changes include, but are not limited to: judgment liens, tax liens, mechanic's liens, bankruptcy, financial reverses, arrest or conviction of felony, etc.)
- B. No fees have been paid, directly or indirectly, to any representative (attorney, accountant, etc.) for services provided or to be provided in connection with applying for or closing this Loan, other than those reported on SBA Form 5, "Business Disaster Loan Application"; or SBA Form 159, "Compensation Agreement". All fees not approved by SBA are prohibited.
- C. All representations in the Borrower's Loan application (including all supplementary submissions) are true, correct and complete and are offered to induce SBA to make this Loan.
- D. No claim or application for any other compensation for disaster losses has been submitted to or requested of any source, and no such other compensation has been received, other than that which Borrower has fully disclosed to SBA.
- E. Neither the Borrower nor, if the Borrower is a business, any principal who owns at least 50% of the Borrower, is delinquent more than 60 days under the terms of any: (a) administrative order; (b) court order; or (c) repayment agreement that requires payment of child support.
- F. Borrower certifies that no fees have been paid, directly or indirectly, to any representative (attorney, accountant, etc.) for services provided or to be provided in connection with applying for or closing this Loan, other than those reported on the Loan Application. All fees not approved by SBA are prohibited. If an Applicant chooses to employ an Agent, the compensation an Agent charges to and that is paid by the Applicant must bear a necessary and reasonable relationship to the services actually performed and must be comparable to those charged by other Agents in the geographical area. Compensation cannot be contingent on loan approval. In addition, compensation

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must not include any expenses which are deemed by SBA to be unreasonable for services actually performed or expenses actually incurred. Compensation must not include charges prohibited in 13 CFR 103 or SOP 50-30, Appendix 1. If the compensation exceeds \$500 for a disaster home loan or \$2,500 for a disaster business loan, Borrower must fill out the Compensation Agreement Form 159D which will be provided for Borrower upon request or can be found on the SBA website.

- G. The Borrower(s) are the owner(s) of and hold legal title to certain real estate property fully described in Section 2 - Collateral. Said premises are in my/our possession, and my/our title thereto has never been disputed or questioned as to any part thereof. Said premises are free of all mortgages, taxes, assessments, liens, encumbrances, and claims, or interest of any other party, except as listed in Section 2 of this document. There are no actions pending affecting said real property.

14. CIVIL AND CRIMINAL PENALTIES

- A. Criminal Penalties: Any person who knowingly makes a false statement or misrepresentation to SBA shall be subject to a fine of not more than \$10,000.00 or to imprisonment for not more than 5 years, or both, under provisions of 18 U.S.C. 1001 and/or 15 U.S.C. 645.
- B. Civil Penalties: Public Law 92-385 provides that for all disaster Loans made after August 16, 1972, anyone who wrongfully misapplies the proceeds of a disaster Loan shall be civilly liable to the Administrator in an amount equal to one and one-half times the original principal amount of the Loan.

15. RESULT OF VIOLATION OF THIS LOAN AUTHORIZATION AND AGREEMENT

- A. If Borrower violates any of the terms or conditions of this Loan Authorization and Agreement, the Loan will be in default and SBA may declare all or any part of the indebtedness immediately due and payable. SBA's failure to exercise its rights under this paragraph will not constitute a waiver.
- B. A default (or any violation of any of the terms and conditions) of any SBA Loan(s) to Borrower and/or its affiliates will be considered a default of all such Loan(s).

16. DISBURSEMENT OF THE LOAN

- A. Disbursements will be made by and at the discretion of SBA Counsel, in accordance with this Loan Authorization and Agreement and the general requirements of SBA.
- B. Disbursements may be made in increments as needed.
- C. Other conditions may be imposed by SBA pursuant to general requirements of SBA.
- D. Disbursement may be withheld if, in SBA's sole discretion, there has been an adverse change in Borrower's financial condition or in any other material fact represented in the Loan application, or if Borrower fails to meet any of the terms or conditions of this Loan Authorization and Agreement.
- E. **NO DISBURSEMENT WILL BE MADE LATER THAN 6 MONTHS FROM THE DATE OF THIS LOAN AUTHORIZATION AND AGREEMENT UNLESS SBA, IN ITS SOLE DISCRETION, EXTENDS THIS DISBURSEMENT PERIOD.**

17. PARTIES AFFECTED

- A. This Loan Authorization and Agreement will be binding upon Borrower and Borrower's successors and assigns and will inure to the benefit of SBA and its successors and assigns.

Application # 1000341722

18. DATE

A. This Loan Authorization and Agreement is approved and issued on March 17, 2016.

Administrator

Maria Contreras-Sweet

James E. Rivera

James E. Rivera

Associate Administrator

U.S. Small Business Administration

The undersigned agree(s) to be bound by the terms and conditions herein during the term of this Loan, and further agree(s) that no provision stated herein will be waived without prior written consent of SBA.

Corporate Execution:

COLEMAN FLORISTS INC

By: *Kenneth P. Coleman*
KENNETH P. COLEMAN, PRESIDENT

3-28-16
Date

By: *Kenneth P. Coleman*
KENNETH P. COLEMAN, SECRETARY

3-28-16
Date

Individual Execution:

Kenneth P. Coleman
KENNETH P. COLEMAN, INDIVIDUALLY

3-28-16
Date

ORIGINAL

Note: Corporate Borrowers must execute Loan Authorization and Agreement in corporate name, by a duly authorized officer, and a seal should be affixed and duly attested, if applicable. Partnership Borrowers must execute in firm name, together with signature of a general partner. Limited Liability entities must execute in the entity name by the signature of the authorized managing person.

**SMALL BUSINESS ADMINISTRATION**

Office of the Chief Financial Officer
Denver Finance Center
Programmatic Accounting Branch
Denver, CO 80259

CERTIFICATE OF INDEBTEDNESS

I, Patrick Henning, Lead Accountant, Programmatic Accounting Branch, Denver Finance Center, Office of the Chief Financial Officer, Small Business Administration, do hereby certify as such officer that I have the authority to make this Certificate and that the financial records of said Small Business Administration are under my custody including the records which are maintained in connection with a loan to: Kenneth Coleman, Loan #8312875000.

Enclosed as Exhibit "A" is a Statement of Account and Transcript of Account relating to said loan, certified as true by Patrick Henning, Lead Accountant, Programmatic Accounting Branch, Denver Finance Center, Office of the Chief Financial Officer, Small Business Administration. Said Statement of Account and Transcript of Account are true and correct to the best of my personal knowledge and from my examination of the books and records of the Small Business Administration with respect to said loan, and are hereby incorporated with and made part of this certificate.

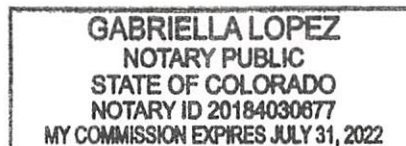
Executed this 3rd day of December, 2018

Patrick Henning, Lead Accountant

I, Gabriella Lopez, a Notary Public in and for the State of Colorado, do hereby certify that the above named Accountant is employed by the United States Small Business Administration, and that such officer has custody of the official financial records of the Small Business Administration.

My commission expires: July 31, 2022

Gabriella Lopez





RECEIVED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MAR 12 2019

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Joshua M. Jones, United States Attorney's Office
111 S. 10th Street, Suite 20.333, St Louis, MO 63102
314-539-2310

DEFENDANTS

COLEMAN FLORISTS INC. & KENNETH P. COLEMAN

County of Residence of First Listed Defendant Franklin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. 3717(e)

Brief description of cause:

Defendants are indebted to the US due to default on SBA Loan

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

67,424.15

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/7/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Joshua M Jones

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF
AMERICA

Plaintiff,

V.

COLEMAN FLORISTS, INC.
& KENNETH P. COLEMAN

Defendant,

Case No.

ORIGINAL FILING FORM

**THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY
WHEN INITIATING A NEW CASE.**

☐ THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS
PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____
AND ASSIGNED TO THE HONORABLE JUDGE _____.

☐ THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

☒ NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date:

3/7/19

Signature of Filing Party

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the
Eastern District of Missouri

UNITED STATES OF AMERICA

Plaintiff

v.

COLEMAN FLORISTS, INC., ET AL.

Defendant

Civil Action No.

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: COLEMAN FLORISTS, INC. & KENNETH P. COLEMAN

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 03/07/2019



Signature of the attorney or unrepresented party

JOSHUA M. JONES

Printed name

111 SOUTH 10TH STREET, SUITE 20.333
ST. LOUIS, MO 63102

Address

JOSHUA.M.JONES@USDOJ.GOV

E-mail address

314-539-2310

Telephone number

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT
for the
Eastern District of Missouri

UNITED STATES OF AMERICA

Plaintiff

v.

COLEMAN FLORISTS, INC., ET AL.

Defendant

Civil Action No.

WAIVER OF THE SERVICE OF SUMMONS

To: UNITED STATES OF AMERICA

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 03/17/2019, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.